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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JACLYN RAE SLEATER, and others,) NO. 4:17-cv-05033-SAB
)
 Plaintiff,)
) DEFENDANT'S ANSWER AND
) v.)
) AFFIRMATIVE DEFENSES
BENTON COUNTY, a municipal) corporation,)
) JURY TRIAL DEMANDED
)
 Defendant.)
)

Defendant Benton County in answer to plaintiff's complaint for violations of civil rights (ECF No. 1), admits, denies, and alleges as follows:

I. INTRODUCTION

1. In answer to paragraph 1 of plaintiff's complaint styled "Introduction" and containing several sentences describing the nature of the complaint, defendant denies plaintiff's allegations as more specifically set forth below in answers to paragraphs 2-42 of the complaint, which answers are

DEFENDANT'S ANSWER AND
AFFIRMATIVE DEFENSES - 1

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hereby incorporated by reference. To the extent any allegations contained in paragraph 1 of the complaint are not answered in defendant's answers to paragraphs 2-42 of the complaint, said allegations are denied.

II. JURISDICTION AND VENUE

2. In answer to paragraph 2 of the complaint, defendant admits only that this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331. Defendant denies the remaining allegations contained in paragraph 2.

3. In answer to paragraph 3 of the complaint, defendant admits the same.

4. In answer to paragraph 4 of the complaint, defendant admits only that paragraph 4 purports to describe the basis of the action herein. Defendant denies the remaining allegations contained in paragraph 4.

5. In answer to paragraph 5 of the complaint, defendant is without information or knowledge sufficient to form a belief as to the truth of said allegations, and therefore denies the same.

III. PARTIES

6. In answer to the first sentence of paragraph 6 of the complaint, defendant is without information or knowledge sufficient to form a belief as to the truth of said allegations, and therefore denies the same except to admit that

Benton County is in the Eastern District of Washington. In answer to the second sentence of paragraph 6 of the complaint, the same sets forth a legal conclusion to which no answer is required. To the extent any answer is required, defendant denies the same.

7. In answer to paragraph 7 of the complaint, defendant admits the same.

IV. FACTS

8. In answer to paragraph 8 of the complaint, defendant admits the same.

9. In answer to paragraph 9 of the complaint, defendant admits that plaintiff owed LFOs on three cause numbers as of April 2014, and that plaintiff was entered into Benton County's "pay or appear" program. Defendant admits that the written terms and requirements of the program agreement state what they state and denies any further or different characterization of the same.

Defendant denies that plaintiff was current at various material times on her monthly payments of some or all of the LFOs arising out of her convictions.

Defendant denies the remaining allegations contained in paragraph 9.

10. In answer to paragraph 10 of the complaint, defendant admits that some payments were made on plaintiff's behalf by someone, including an on-

line payment of \$150 on one of plaintiff's accounts on or about April 17, 2014.
Defendant is without information or knowledge sufficient to form a belief as to
the truth of the allegation that payments were made by Ms. Sleater's mother
and therefore denies the same. Defendant admits that certain accounts of
plaintiff were in arrears. Defendant denies the remaining allegations contained
in paragraph 10.

11 11. In answer to paragraph 11 of the complaint, defendant admits that
12 on or about April 22, 2014, the Benton County Clerk's office sought and
13 obtained arrest warrants for Ms. Sleater on two cause numbers listed in arrears
14 without scheduling a hearing and without issuing a summons or other directive
15 to appear before the court. Defendant denies the remaining allegations
16 contained in paragraph 11.

17 12. In answer to paragraph 12 of the complaint, defendant admits the
18 same.

19 13. In answer to paragraph 13 of the complaint, defendant admits that
20 no probable cause hearing occurred with respect to the warrants precipitating
21 Ms. Sleater's arrest occurring on May 16, 2014. Defendant denies the
22 remaining allegations contained in paragraph 13.

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3 14. In answer to paragraph 14 of the complaint, defendant admits the
4 same with respect to the warrants precipitating Ms. Sleater's arrest occurring
5 on May 16, 2014. Defendant is without information or knowledge sufficient to
6 form a belief as to the truth of the remaining allegations contained in paragraph
7 14 and therefore denies the same.
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10 15. In answer to paragraph 15 of the complaint, defendant admits the
11 existence of a decision of the Washington State Court of Appeals filed June 14,
12 2016, and further avers that said decision states what it states and denies any
13 further or different characterization of the same. Defendant denies the
14 remaining allegations contained in paragraph 15.
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17 16. In answer to paragraph 16 of the complaint, defendant admits that
18 the decision of the Court of Appeals has such precedential authority as is
19 afforded by the law. Defendant denies the remaining allegations contained in
20 paragraph 16.
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23 17. In answer to paragraph 17 of the complaint, defendant denies the
24 same.
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27 18. In answer to paragraph 18 of the complaint, defendant denies the
28 same.
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3 19. In answer to paragraph 19 of the complaint, defendant denies the
4 same.
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6 **V. CLASS ACTION ALLEGATIONS**

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8 20. In answer to paragraph 20 of the complaint, defendant admits only
9 that the same purports to describe the basis of the action herein and the
10 provisionally proposed class definition. Defendant denies the remaining
11 allegations contained in paragraph 20.
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13 21. In answer to paragraph 21 of the complaint, defendant denies the
14 same.
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16 22. In answer to paragraph 22 of the complaint, defendant denies the
17 same.
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19 23. In answer to paragraph 23 of the complaint, defendant denies the
20 same.
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22 24. In answer to paragraph 24 of the complaint, defendant denies the
23 same.
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25 25. In answer to paragraph 25 of the complaint, defendant is without
26 information or knowledge sufficient to form a belief as to the truth of said
27 allegations, and therefore denies the same.
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3 26. In answer to paragraph 26 of the complaint, defendant denies the
4 same.
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6 **VI. CAUSES OF ACTION**

7 **A. CIVIL RIGHTS – VIOLATION OF FOURTH, FIFTH AND**
8 **FOURTEENTH AMENDMENTS**

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10 27. In answer to paragraph 27 of the complaint, defendant denies the
11 same.
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13 28. In answer to paragraph 28 of the complaint, defendant denies the
14 same.
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16 29. In answer to paragraph 29 of the complaint, defendant denies the
17 same.
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19 30. In answer to paragraph 30 of the complaint, defendant denies the
20 same.
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22 31. In answer to paragraph 31 of the complaint, defendant denies the
23 same.
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B. MUNICIPAL LIABILITY

25 32. In answer to paragraph 32 of the complaint, defendant admits that
26 defendant has had, at various material times, one or more policies, customs, or
27 practices known as the "pay or appear" program, admits that the terms and
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3 requirements of any of said policies, customs, or practices state what they state,
4 and denies any further or different characterization of the same. Defendant
5 admits that certain aspects of the same were addressed in the Court of Appeals
6 decision filed June 14, 2016, which decision states what it states and denies
7 any further or different characterization of the same. Defendant denies the
8 remaining allegations contained in paragraph 32.

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11 33. In answer to paragraph 33, defendant admits that Benton County
12 is a "person" within the meaning of 42 U.S.C. § 1983 and that certain actions
13 of Benton County in relation to the plaintiff were taken under the color of law.
14 Defendant denies the remaining allegations contained in paragraph 33.

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17 34. In answer to paragraph 34 of the complaint, defendant denies the
18 same.

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21 35. In answer to paragraph 35 of the complaint, defendant denies the
22 same.

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VII. DAMAGES

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26 36. In answer to paragraph 36 of the complaint, defendant denies the
27 same.

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**Except to the extent specifically admitted above, defendant denies all
29 remaining allegations of the complaint.**

VIII. REQUEST FOR RELIEF

Defendant denies that plaintiff is entitled to judgment against it and further denies that plaintiff is entitled to any of the relief sought in the complaint. Defendant further denies that this case should be certified as a class action pursuant to FRCP 23(b)(2), (3).

IX. AFFIRMATIVE DEFENSES

1. Plaintiff has failed to state a claim upon which relief may be granted.

2. Some or all of the claims of plaintiff and/or any putative class members against defendant for themselves or for members of their proposed class are barred due to bona fide disputes concerning the obligation of payment under the pay or appear program.

3. Some of the claims of plaintiff and/or any putative class members against defendant for themselves or for members of their proposed class are barred because one or more of the plaintiffs and/or any putative class members knowingly submitted to some or all of the conduct by defendant that plaintiff challenges herein.

4. This action is not properly maintainable as a class action because plaintiff cannot establish all of the necessary elements for class certification in

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3 that, among other things: common issues of fact or law do not predominate; to
4 the contrary, individual issues predominate; plaintiff's claims are not
5 representative or typical of claims of the putative class; plaintiff is not a proper
6 class representative; plaintiff and alleged putative class counsel are not
7 adequate representatives of the alleged putative class; there does not exist a
8 well-defined community of interest as to the questions of law and fact
9 involved; the putative class is sufficiently manageable without implementing a
10 class action mechanism and, therefore, it is not the superior method for
11 adjudicating this dispute; and, the alleged putative class is not ascertainable,
12 nor are its members identifiable.
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14 5. This action is not properly maintainable as a class action because
15 plaintiff's claims are unique to plaintiff, which renders plaintiff incapable of
16 adequately representing the putative class.
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18 6. Class or subclass certification would be inappropriate due to
19 conflicts of interest between plaintiff and putative class or subclass members,
20 or between and among putative class or subclass members.
21

22 7. The claims of plaintiff and/or any putative class members are
23 barred, or limited, by the applicable statutes of limitations. Further, the
24 applicability of the statutes of limitations requires individualized
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determinations for each putative member of the purported class, thereby precluding class-wide resolution.

8. Class certification is inappropriate due to defendant's lawful policies, pursuant to *Walmart Stores, Inc. v. Dukes*, 564 U.S. 338 (2011).

9. Defendant and all persons for whom defendant is legally responsible acted at all times in good faith and with reasonable grounds for believing that they had not violated Washington or federal law and are therefore entitled to qualified immunity, absolute immunity, or other forms of immunity.

10. Plaintiff fails to establish municipal liability pursuant to *Monell v. Dept. of Social Services*, 436 U.S. 658 (1978) and its progeny.

11. If the plaintiff and/or any putative class members have sustained any damages from the conduct of defendant, which defendant disputes, then some or all of these alleged damages may have been proximately caused by other individuals or entities for whom defendant is not legally responsible.

12. The complaint and every claim for relief therein is barred, in whole or in part, to the extent that damages, if any, resulted from the acts and/or omissions of plaintiff and/or any putative class members.

13. Damages of plaintiff and/or any putative class members are

subject to offset for debts owed to defendant.

14. Damages of plaintiff and/or any putative class members are in whole or in part de minimis.

15. The claims of plaintiff and/or any putative class members are barred, or limited, under such equitable defenses as the evidence demonstrates, including but not limited to the doctrines of waiver, estoppel, unclean hands, and laches.

16. The claims of plaintiff and/or any putative class members are barred, or limited, to the extent that their damages were proximately caused in whole or in part by their wanton and willful misconduct in intentionally acting in disregard of the consequences thereof.

X. DEMAND FOR JURY TRIAL

Pursuant to FRCP 38(b), defendant demands a trial by jury of this action.

PRAYER FOR RELIEF

WHEREFORE, having fully answered the complaint, defendant prays
for relief as follows:

1. That the complaint and each cause of action therein be dismissed with prejudice:

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3 2. That the plaintiff and the putative class take nothing by way of the
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5 complaint;

6 3. For an award of all reasonable costs and reasonable attorneys' fees
7 incurred herein as may be recovered by applicable law; and
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9 4. That the Court order such other and further relief for defendant as
10 the Court deems just and proper.

11 DATED THIS 22nd day of May, 2017.
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13 s/ KENNETH W. HARPER
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DEFENDANT'S ANSWER AND
AFFIRMATIVE DEFENSES - 13

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3 CERTIFICATE OF SERVICE
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6 I hereby certify that on May 22, 2017, I filed the foregoing with the
7 Clerk of the Court using the CM/ECF System, which will send notification of
8 such filing to the following:

9
10 Mr. Breean L. Beggs Bbeggs@pt-law.com
11 Mr. Andrew S. Biviano abiviano@pt-law.com

12 and I hereby certify that I have mailed by United States Postal Service the
13 document to the following non-CM/ECF participants:

14 None.

15
16 s/ KENNETH W. HARPER
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